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(Admitted Pro Hac Vice)

Attorney for Robert Williamson, III and Cate Waken-Williamson

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT WILLIAMSON, III an individual,

Plaintiff,

vs.

VICTORIA L. GUNVALSON, an individual;
DAVID BROOKS AYERS, an individual,

Defendants.

DAVID BROOKS AYERS, an individual,

Counterclaimant,

vs.

ROBERT WILLIAMSON, III, an individual;
CATE WAKEN-WILLIAMSON, an
individual; and ANGELA TORRES, an
individual,

Counterdefendants.

BASE CASE NO.:

2:13-cv-01019-JAD- GWF

MEMBER CASE NO.:

2:13-cv-02022-JAD-GWF

**PLAINTIFF ROBERT WILLIAMSON,
III AND CATE WAKEM-
WILLIAMSON'S ANSWER TO FIRST
AMENDED COUNTERCLAIM OF
DAVID BROOKS AYERS AGAINST
ROBERT WILLIAMSON, III CATE
WILLIAMSON, AND ANGELA
TORRES**

COME NOW, Plaintiff/Counterdefendants, ROBERT WILLIAMSON III and
CATE WAKEM-WILLIAMSON, by and through their counsel of record, and hereby
answer the First Amended Counterclaim of David Brooks Ayers Against Robert

1 Williamson III, Cate Wakem-Williamson, and Angela Torres, and in and for those
2 allegations set forth herein, admits, denies avers and alleges as follows:
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4 David Brooks Ayers originally filed his First Amended Counterclaim against
5 Robert Williamson, III, Cate Wakem-Williamson, and Angela Torres, under document
6 #43, on October 7, 2014. Plaintiff/Counterdefendants, Robert Williamson, III and Cate
7 Wakem-Williamson then provided their Answer to said First Amended Counterclaim
8 through Doc. #49 on November 10, 2014. Thereafter, for an unstated reason, David
9 Brooks Ayers' First Amended Counterclaim was stricken from the record. Mr. Ayers then
10 moved for and obtained leave to file his First Amended Counterclaim, which was filed
11 under Doc. #66 on January 12, 2015.¹ Doc. #66 is identical to Doc. #43, to which
12 Plaintiff/Counterdefendants Robert Williamson, III and Cate Wakem-Williamson filed
13 their previous Answer.
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17 It is Plaintiff/Counterdefendants' position that their original answer filed under
18 Doc. 49 was sufficient to respond to Mr. Ayers' counterclaim. Though
19 Plaintiff/Counterdefendants Robert Williamson, III and Cate Wakem-Williamson have
20 already provided an Answer, the following is provided through an abundance of caution.
21

22 1. Answering Paragraph 1 of the Defendant/Counterclaimant's First Amended
23 Counterclaim, Plaintiff/Counterdefendants admit.
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27 ¹ After filing the second First Amended Counterclaim, no action was taken to insure service of the First Amended
28 Counterclaim had been accomplished on Plaintiff/Counterdefendants Robert Williamson, III and Cate Waken-
Williamson, whose attorney had provided a wrong address to the Court.

1 2. Answering Paragraph 2 of the Defendant/Counterclaimant's First Amended
2 Counterclaim, Plaintiff/Counterdefendants admit.

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4 3. Answering Paragraph 3 of the Defendant/Counterclaimant's First Amended
5 Counterclaim, Plaintiff/Counterdefendants admit.

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7 4. Answering Paragraph 4 of the Defendant/Counterclaimant's First Amended
8 Counterclaim, Plaintiff/Counterdefendants are without sufficient information to admit or
9 deny the allegation contained herein, and therefore, deny each, every and all of the
10 allegations contained herein.

11
12 5. Answering Paragraph 5 of the Defendant/Counterclaimant's First Amended
13 Counterclaim, Plaintiff/Counterdefendants are without sufficient knowledge or
14 information to form a belief as to the truth or falsity of the allegations contained therein,
15 and therefore, deny each, every and all of the allegations contained herein.

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17 6. Answering Paragraph 6 of the Defendant/Counterclaimant's First Amended
18 Counterclaim, Plaintiff/Counterdefendants admit.

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20 7. Answering Paragraph 7 of the Defendant/Counterclaimant's First Amended
21 Counterclaim, Plaintiff/Counterdefendants admit.

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23 8. Answering Paragraph 8 of the Defendant/Counterclaimant's First Amended
24 Counterclaim, Plaintiff/Counterdefendants admit.

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26 9. Answering Paragraph 9 of the Defendant/Counterclaimant's First Amended
27 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

1 10. Answering Paragraph 10 of the Defendant/Counterclaimant's First Amended
2 Counterclaim, Plaintiff/Counterdefendants admit that R. Williamson, Gunvalson and
3 Michael Nicholson formed a business, but deny the remaining allegations contained in
4 Paragraph 10.
5

6 11. Answering Paragraph 11 of the Defendant/Counterclaimant's First Amended
7 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.
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9 12. Answering Paragraph 12 of the Defendant/Counterclaimant's First Amended
10 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.
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12 13. Answering Paragraph 13 of the Defendant/Counterclaimant's First Amended
13 Counterclaim, Plaintiff/Counterdefendants admit that Gunvalson gave a 16.67 % interest
14 in the business to Ayers, who later sold the entirety of his share to R. Williamson.
15 Plaintiff/Counterdefendants deny the remaining allegations contained in Paragraph 13.
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17 14. Answering Paragraph 14 of the Defendant/Counterclaimant's First Amended
18 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.
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20 15. Answering Paragraph 15 of the Defendant/Counterclaimant's First Amended
21 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.
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23 16. Answering Paragraph 16 of the Defendant/Counterclaimant's First Amended
24 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.
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26 a. Answering sub-Paragraph a of the Defendant/Counterclaimant's First Amended
27 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.
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b. Answering sub-Paragraph b of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

c. Answering sub-Paragraph c of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

d. Answering sub-Paragraph d of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

e. Answering sub-Paragraph e of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

f. Answering sub-Paragraph f of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

g. Answering sub-Paragraph g of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

h. Answering sub-Paragraph h of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

17. Answering Paragraph 17 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

18. Answering Paragraph 18 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

19. Answering Paragraph 19 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

20. Answering Paragraph 20 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

21. Answering Paragraph 21 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

22. Answering Paragraph 22 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

23. Answering Paragraph 23 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and therefore, deny each and every allegation contained therein.

24. Answering Paragraph 24 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and therefore, deny each and every allegation contained therein.

25. Answering Paragraph 25 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants are without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and therefore, deny each and every allegation contained therein.

26. Answering Paragraph 26 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants are without sufficient knowledge or

1 information to form a belief as to the truth or falsity of the allegations contained therein,
2 and therefore, deny each and every allegation contained therein.

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4 27. Answering Paragraph 27 of the Defendant/Counterclaimant's First Amended
5 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

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7 28. Answering Paragraph 28 of the Defendant/Counterclaimant's First Amended
8 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein

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10 29. Answering Paragraph 29 of the Defendant/Counterclaimant's First Amended
11 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

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13 30. Answering Paragraph 30 of the Defendant/Counterclaimant's First Amended
Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

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15 31. Answering Paragraph 31 of the Defendant/Counterclaimant's First Amended
16 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

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18 32. Answering Paragraph 32 of the Defendant/Counterclaimant's First Amended
Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

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20 33. Answering Paragraph 33 of the Defendant/Counterclaimant's First Amended
21 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

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23 34. Answering Paragraph 34 of the Defendant/Counterclaimant's First Amended
Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

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25 35. Answering Paragraph 35 of the Defendant/Counterclaimant's First Amended
26 Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

36. Answering Paragraph 36 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

37. Answering Paragraph 37 of the Defendant/Counterclaimant's First Amended Counterclaim, Plaintiff/Counterdefendants deny the allegations contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. The Defendant/Counterclaimant fails to state a claim against defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. The Defendant/Counterclaimant improperly plead a Third Party Claim.

THIRD AFFIRMATIVE DEFENSE

3. The Defendant/Counterclaimant has unclean hands and is not entitled to the relief requested herein.

FORTH AFFIRMATIVE DEFENSE

4. The Defendant/Counterclaimant is barred for relief by his own conduct.

FIFTH AFFIRMATIVE DEFENSE

5. Counterclaimant has failed to satisfy conditions precedent to bringing any action against Defendant.

SIXTH AFFIRMATIVE DEFENSE

6. The Defendant/Counterclaimant failed to mitigate damages, if any such damages exist at all.

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 7. Counterdefendants acted in good faith in all of their dealings with
3
4 Counterclaimant.

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 8. Counterclaimant is a Public Figure as defined by *New York Times Co. v.*
7
8 *Sullivan*, 376 U.S. 254 (1964), and as such Counterclaimant has no cause of for
9
10 defamatory statements absence a showing of actual malice, which Counterclaimant has
11 failed to establish.

12 **NINTH AFFIRMATIVE DEFENSE**

13 9. Counterdefendants have been forced to retain counsel to defend against
14
15 Counterclaimant's Counterclaim and Counterdefendants are entitled to an award of
16 reasonable attorney's fees.

17 **TENTH AFFIRMATIVE DEFENSE**

18 10. Counterdefendants incorporate by reference those affirmative defenses
19
20 enumerated in Rule 8 of the Federal Rules of Civil Procedure as if fully set forth herein.
21
22 In the event further investigation or discovery reveals the applicability of such defenses,
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24 Counterdefendants reserve the right to seek leave of Court to amend this answer to
25 specifically assert any such defense. Such defenses are herein incorporated by reference
26 for the specific purpose of not waiving any such defense.

27 WHEREFORE, the Plaintiff/Counterdefendants, request

28 1. That Defendant/Counterclaimant take nothing by way of his Complaint.

1 2. For all reasonable attorney Fees and Costs; and

2 3. Such further relief as this Court deems just and proper.

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4 Respectfully submitted: October 27, 2017.

5
6 **THE WESBROOKS LAW FIRM, P.L.L.C.**

7 By: /s/ A. Mark Wesbrooks
8 Wesbrooks Law Firm, PLLC
9 Attorneys for Robert Williamson, Cate-
10 Wakem Williamson and Vicki's Vodka,
11 LLC
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CERTIFICATE OF SERVICE

I, Mark Wesbrooks, hereby certify that on October 27, 2017, I filed through the Court's ECF system and served either through the ECF system or by electronic mail the foregoing document described as: **PLAINTIFF ROBERT WILLIAMSON, III AND CATE WILLIAMSON'S ANSWER TO FIRST AMENDED COUNTERCLAIM OF DAVID BROOKS AYERS, and reference Bankruptcy Court Order** using the Court's electronic filing system. A copy of the foregoing document(s) will be served via the Court's electronic filing system on interested parties in this action, or by email/regular mail as follows:

2:13-cv-01019-JAD-GWF Notice has been electronically mailed to:

Edward Randall Miley
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Sean Patrick Reis
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Tony L. Abbatangelo
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btreyzon@actslaw.com

Regular First Class Mail, and as Indicated on same date:

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/s/Mark Wesbrooks